

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 7, “Appeals and Hearings,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 81, “Nursing Facilities,” Iowa Administrative Code.

The proposed amendments revise Medicaid service requirements to allow a contracted broker to provide management and oversight of the provision of nonemergency medical transportation. Section 6083 of the Deficit Reduction Act of 2005 (DRA), Public Law 109-171, allows states to implement a brokerage program to provide nonemergency medical transportation to Medicaid members who need access to medical care but have no other means of transportation. The University of Iowa Public Policy Center published a study in 2008 recommending that Iowa Medicaid move to a single, statewide broker system for arranging transportation and paying claims.

The Department has issued request for proposal MED-10-011 to solicit proposals from vendors for a transportation brokerage. The Department intends to enter into a contract with a broker that will be responsible for arranging transportation for Medicaid members who are eligible for this benefit, negotiating rates with transportation providers, and reimbursing transportation claims. Medicaid members who qualify to receive nonemergency medical transportation will be required to make transportation arrangements through the Department’s contracted broker. A member who has been denied transportation by the broker will be able to appeal this decision.

The amendments also eliminate the requirement that transportation services be available only for medical appointments outside the community in which the member lives, which is a restriction in conflict with federal regulations.

The brokerage system will not apply to:

- Medicaid providers that provide nonemergency medical transportation as a directly reimbursable service, such as federally qualified health centers and local education agencies.
- Transportation provided under a Medicaid home- and community-based services waiver.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before June 8, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend rule **441—7.1(17A)**, definition of “Aggrieved person,” as follows:

“*Aggrieved person*” means a person against whom the department has taken an adverse action. This includes a person who meets any of the following conditions:

1. and 2. No change.
3. For medical assistance, healthy and well kids in Iowa, IowaCare, family planning services, and waiver services, a person (see numbered paragraph “7” for providers):
  - Whose request to be given an application was denied.
  - Whose application has been denied or has not been acted on in a timely manner.
  - Who has been notified that level of care requirements have not been met.

- Who has been aggrieved by a failure to take into account the appellant’s choice in assignment to a coverage group.
- Who contests the effective date of assistance, services, or premium payments.
- Who contests the amount of health insurance premium payments, healthy and well kids in Iowa premium payments, Medicaid for employed people with disabilities premium payments, IowaCare premium payments, or the spenddown amount under the medically needy program.
- Who contests the amount of client participation.
- Whose claim for payment or prior authorization has been denied.
- Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.
- Who has received notice from the medical assistance hotline that services not received or services for which an individual is being billed are not payable by medical assistance.
- Who has been notified that there will be a reduction or cancellation of assistance or waiver services.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.
- Who has been denied requested nonemergency medical transportation services by the broker designated by the department pursuant to rule 441—78.13(249A) and has exhausted the grievance procedures established by the broker pursuant to 441—subrule 78.13(7).

4. to 12. No change.

ITEM 2. Rescind rule 441—78.13(249A) and adopt the following **new** rule in lieu thereof:

**441—78.13(249A) Nonemergency medical transportation.** Nonemergency transportation to receive medical care, including any reimbursement of transportation expenses incurred by a Medicaid member, shall be provided through the broker designated by the department pursuant to a contract between the department and the broker, as specified in this rule.

**78.13(1) Member request.** When a member needs nonemergency transportation to receive medical care provided by the Medicaid program, including any reimbursement of transportation expenses incurred by the member, the member must contact the broker in advance. The broker shall establish and publicize the procedures for members to request transportation services. The broker is required to provide transportation within 72 hours of a request only if receipt of medical care within 72 hours is medically necessary.

**78.13(2) Necessary services.** Transportation shall be provided only when the member needs transportation to receive necessary services covered by the Iowa Medicaid program from an enrolled provider, including transportation needed to obtain prescribed drugs.

**78.13(3) Access to free transportation.** Transportation shall be provided only if the member does not have access to transportation that is available at no cost to the member, such as transportation provided by volunteers, relatives, friends, social service agencies, nursing facilities, residential care centers, or any other source. EXCEPTION: If a prescribed drug is needed immediately, transportation will be provided to obtain the drug even if free delivery is available.

**78.13(4) Closest medical provider.** Transportation beyond 20 miles (one way) shall be provided only to the closest qualified provider unless:

- a. The difference between the closest qualified provider and the provider requested by the member is less than 10 miles (one way); or
- b. The additional cost of transportation to the provider requested by the member is medically justified based on:
  - (1) A previous relationship between the member and the requested provider,
  - (2) Prior experience of the member with closer providers, or
  - (3) Special expertise or experience of the requested provider.

**78.13(5) Coverage.** Based on the information provided by the member and the provisions of this rule, the broker shall arrange and reimburse for the most economical form of transportation appropriate to the needs of the member.

a. The broker may require that public transportation be used when reasonably available and the member's condition does not preclude its use.

b. The broker may arrange and reimburse for transportation by arranging to reimburse the member for transportation expenses. In that case, the member shall submit transportation expenses to the broker on Form 470-0386, Medical Transportation Claim, or an equivalent electronic form.

c. When a member is unable to travel alone due to age or due to physical or mental incapacity, the broker shall provide for the expenses of an attendant.

d. The broker shall provide for meals, lodging, and other incidental transportation expenses required for the member and for any attendant required due to the age or incapacity of the member in connection with transportation provided under this rule.

**78.13(6) Exceptions for nursing facility residents.**

a. Nonemergency medical transportation for residents of nursing facilities within 30 miles of the nursing facility (one way) shall not be provided through the broker but shall be the responsibility of the nursing facility.

b. Nonemergency medical transportation for residents of nursing facilities beyond 30 miles from the nursing facility (one way) shall be provided through the broker, but the nursing facility shall contact the broker on behalf of the resident.

**78.13(7) Grievances.** Pursuant to its contract with the department, the broker shall establish an internal grievance procedure for members and transportation providers. Members who have exhausted the grievance process may appeal to the department pursuant to 441—Chapter 7 as an “aggrieved person.” For transportation providers, the grievance process shall end with binding arbitration, with a designee of the Iowa Medicaid enterprise as arbitrator.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 3. Amend paragraphs **81.10(5)“b”** and **“d”** as follows:

b. The facility shall arrange for nonemergency transportation for members to receive necessary medical services outside the facility.

(1) If a family member, friend, or volunteer is not available to provide the transportation at no charge, the facility shall arrange and pay for the medically necessary transportation within 30 miles of the facility (one way).

(2) For medically necessary transportation beyond 30 miles from the facility (one way), when no family member, friend, or volunteer is available to provide the transportation at no charge, the facility shall arrange for transportation through the broker designated by the department, with the cost to be paid by the broker pursuant to rule 441—78.13(249A).

d. Other supplies or services for which direct Medicaid payment may be available include:

(1) to (4) No change.

(5) Transportation to receive medical services ~~outside the community~~ subject to limitations specified in rule 441—78.13(249A) beyond 30 miles from the facility (one way), through the broker designated by the department pursuant to a contract between the department and the broker.

(6) No change.